

REMARKS/ARGUMENTS

I. Claim Rejections Under 35 U.S.C. § 103

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,738,884 to Algrim et al. (hereinafter "Algrim") in view of U.S. Patent No. 2,326,724 to Fasold et al. (hereinafter "Fasold") and evidenced by Wikipedia.

Specifically, the Examiner alleges that Algrim discloses a roofing shingle having a bottom surface with a release coating of a continuous film where the release coating is disposed only on a pressure point portion of the bottom surface. The Examiner admits that Fasold fails to disclose that the particles have good to perfect basal cleavage, but alleges that Fasold discloses that the particles on the bottom surface prevent sticking of the adjacent layers of the roofing material in a package.

In response, independent claim 1 has been amended to clarify the distinguishing features of the present invention. Specifically, independent claim 1 was amended to recite that the continuous film of particles comprising the release coating are in the class phyllosilicates. This limitation was previously recited in dependent claim 4, which is now cancelled. Therefore, no new issue is raised by way of the amendment to the claims. Accordingly, Applicant respectfully requests entry of the amendment to the claims.

The Examiner alleges that Fasold, in Col. 1, lines 26-27 teaches talc. However, Fasold, in Col. 1, lines 13-31 discusses coating one or both surfaces of the impregnated web with a weather resistant bituminous coating material. Fasold teaches applying talc to the bituminous coating on the entire surface.

The present invention provides specifically for a release coating applied on a pressure point portion of a bottom surface of the roofing shingle. As taught in the specification, optimum results, in terms of application and material costs, is obtained when the coating is applied to the "pressure point" portion of the laminate shingle. This pressure point is generally denoted by reference numeral 6 in FIG. 2. Pressure is greatest in the stack at this location. As such, it is at this point where adhesion between shingles is most apt to occur. Thus, this region is where application of a release coating, to prevent adhesion, is most preferred.

The Examiner states that combining the reference of Algrim would make it obvious to use talc at the pressure point, but this is not so. Combining Algrim with Fasold would teach one of ordinary skill in the art to apply talc to the entire surface, resulting in an increasing cost of materials and labor. Algrim teaches that the release material 14 includes paper or polyester which would have to be treated with a non-adhering substance such as silicone or fluorocarbons.

One of ordinary skill in the art would not look at the talc taught in Fasold, which is to be applied to the entire surface of the roofing material, and combine it with Algrim to apply it to only the release material. Algrim teaches a different material to be used for the release material. Application of the release coating only to the pressure point as shown in Fig. 2, results in significant savings of labor and material when the release coating is applied only to the pressure point of the roofing shingle.

"Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so." ACS Hosp. Systems, Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984.)

There is no teaching or suggestion in Algrim or Fasold to apply the talc used on the entire surface of the bituminous material taught in Fasold, and to apply it to the release material of Algrim, when Algrim teaches using paper or polyester. Therefore, the 35 U.S.C. 103(a) rejection of claim 1 is improper.

Regarding the rejection of dependent claims 2-10, it must be noted that the Examiner relies on Algrim and/or Fasold to support the asserted rejections. As set out above, Fasold, individually or in combination with Algrim, does not disclose all the elements of claim 1. Accordingly, since the remaining dependent claims recite additional unique elements and/or limitations, these claims remain patentable because the cited reference does not supply the elements missing with respect to the independent claims. As such, it is respectfully submitted that the dependent claims are in allowable form.

Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. 103(a) rejection of claims 1-10 under Algrim in view of Fasold and Wikipedia, and respectfully request allowance of claims 1-3, 5-8 and 10.

II. Conclusion

In view of the aforementioned remarks and amendments, the Applicants believe that each of the pending claims is in condition for allowance. If, upon receipt and review of this amendment, the Examiner believes that the present application is not in condition for allowance and that changes can be suggested which would place the claims in allowable form, the Examiner is respectfully requested to contact Applicants' undersigned counsel at the number provided below.

The Director is hereby authorized to charge any fees or credit any overpayment of same associated with this filing to our Deposit Account No. 03-1250, under Reference No. FDN-2831, Customer No. 43,309.

Respectfully submitted,

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